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October 6, 2000

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
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Nashville, Tennessee 37243

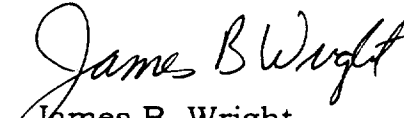
Re: Docket No. 97-00409: All Telephone Companies Tariff Filings
Regarding Reclassification of Pay Telephone Service As Required by FCC
Docket 96-128; UTSE Rebuttal Testimony

Dear Mr. Waddell:

Pursuant to the procedural schedule adopted in the above docket,
enclosed for filing on behalf of United Telephone-Southeast, Inc. ("United") are
the original and thirteen (13) copies of United's Rebuttal Testimony.

Please contact me if you have any questions.

Sincerely yours,


James B. Wright

JBW

Enclosures

cc: Honorable Lynn Greer, Pre-Hearing Officer
Parties of Record (w/enclosures)
Dennis Wagner (w/enclosures)
Laura Sykora (w/enclosures)
Steve Parrott (w/enclosures)
Kaye Odum (w/enclosures)

POSTED
10-6-00

CERTIFICATE OF SERVICE; DOCKET 97-00409
(Pay Telephone Service Reclassification)

The undersigned hereby certifies that on October 6, 2000 the foregoing Rebuttal Testimony of United Telephone-Southeast, Inc. was served upon the following parties of record by fax or by depositing in the U.S mail addressed as follows:

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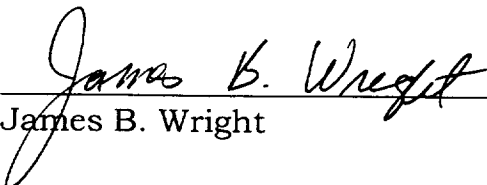
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UNITED TELEPHONE - SOUTHEAST, INC.

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**REBUTTAL TESTIMONY
OF
JEFFREY P. CASWELL**

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EXECUTIVE SECRETARY

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
DOCKET NO. 97-00409
OCTOBER 6, 2000**

1 **Q. Please state your name, title and business address.**

2 **A. My name is Jeffrey P. Caswell. I am a Group Manager – CLEC Negotiations,**
3 **for Sprint/United Management Company. My business address is 6480 Sprint**
4 **Parkway, Overland Park, KS 66251. I am testifying in this proceeding on**
5 **behalf of United Telephone-Southeast, Inc., hereinafter referred to as Sprint.**

6 **Q. Mr. Caswell, did you pre-file direct testimony in this docket on**
7 **September 15, 2000?**

8 **A. Yes I did.**

9 **Q. What is the purpose of your rebuttal testimony?**

10 **A. The purpose of my rebuttal testimony is to provide the response of Sprint to**
11 **statements made by the Tennessee Payphone Owners Association's (TPOA's)**
12 **witness Don J. Wood in his direct testimony filed in this docket on September**
13 **15, 2000.**

1 **Q. Mr. Wood states on page 14 of his direct testimony that a forward-**
2 **looking economic cost methodology should – and must – be used; do you**
3 **agree with him?**

4 A. No, I do not. The FCC has not ordered the use of any particular cost
5 methodology, and certainly not a forward-looking cost methodology. The only
6 requirement the FCC has ordered is that LEC payphone rates must meet the
7 “new services” test, which establishes a price floor (not a ceiling) to prevent
8 predatory pricing. In its Payphone Orders, the FCC has consistently
9 maintained that LECs should have flexibility in pricing its payphone services.
10 To that end, the FCC has stated that LECs are free to develop and justify their
11 own costing methodologies.¹

12 **Q. On page 16 of his testimony, Mr. Wood states that UNE loop costs are an**
13 **appropriate starting point for the TRA’s evaluation of rates for payphone**
14 **access lines; please comment.**

15 A. It is inappropriate to use UNE loop rates as the starting point for evaluation of
16 rates for payphone access lines. Payphone access lines are not UNEs to which
17 Sections 251 and 252 of the 1996 Telecommunications Act apply. As a result,
18 UNE pricing and costing standards do not apply to payphone lines and

¹ See, Amendments of Part 69 of the Commission’s Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, *Report and Order & Order on Further Reconsideration & Supplemental Notice of Proposed Rulemaking*, 6 FCC Rcd at 4531 at ¶ 42 (1991).

1 services. The FCC has clearly stated this in its First Payphone Order as
2 follows:

3 We decline to require . . . that the pricing regime under Sections 251
4 and 252 apply to all Section 276 payphone services offered by
5 incumbent LECs. Section 276 does not refer to or require the
6 application of Sections 251 and 252 to LEC payphone services. In
7 addition, the elements and services to be offered under Sections 251
8 and 252 are not available to entities that are not telecommunications
9 carriers, and many PSPs are not telecommunications carriers.²

10 Independent PSPs such as TPOA members are not telecommunications
11 carriers, but retail subscribers. Thus, Mr. Wood is attempting to apply
12 concepts intended for the wholesale market to a retail offering. One clear
13 danger in applying that pricing and costing methodology is that if LECs were
14 required to provide UNE prices to PSPs, it would effectively preclude local
15 service competition in the payphone access line market. In effect, the
16 wholesale market created by the UNE-P scheme would have been opened up
17 to single line retail customers; logic dictates that the “next iteration” would be
18 for any other single line retail customer to purchase all regulated services at
19 cost. At that point, the entire basis of competition in local service is

² Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket 96-128, *Report and Order*, FCC 96-388 Order, at ¶ 147 (rel. Sept. 20, 1996).

1 eliminated, as all consumers declare themselves “wholesalers” (CLECs), and
2 the market reverts to a monopoly provider and a renamed customer base.

3 **Q. Do you agree with Mr. Wood that the FCC has been clear in its Orders**
4 **that the new services test requires LECs to fully justify both the level of**
5 **direct costs and the level of any overhead loadings in a proposed rate?**

6 A. While I disagree that the “new services” test has such a requirement, I do agree
7 that the FCC, in its Orders, does require that prices be set at levels that do not
8 recover more than a just and reasonable portion of overhead costs. I am
9 confident that the overhead loadings in Sprint’s payphone rates as discussed in
10 my direct testimony are clearly justified and reasonable when compared to the
11 price-to-cost ratios of other Sprint offerings and other competitors’ services
12 which are subject to the “new services” test.

13 **Q. Do you agree with Mr. Wood that it is essential that the total cost of the**
14 **local loop be reduced by the amount of the SLC/EUCL and PICC (and**
15 **any applicable CCLC) charges in order to calculate the cost based rate**
16 **for a payphone access line?**

17 A. No, I do not. First of all, Mr. Wood makes a leap in logic with his
18 underlying assumption that the local rate or price for retail payphone service
19 must somehow equal the cost of the service. The phrase “cost based”, as used
20 repeatedly by the FCC in the orders, bears no resemblance to “priced at cost”,
21 as Mr. Wood would have us believe. The FCC has never ordered that

1 payphone services be priced at cost; indeed, the FCC has allowed prices for
2 payphone services that are substantially greater than direct costs. As shown in
3 my direct testimony, the FCC has allowed various LEC payphone rates as high
4 as 4.8 times the direct cost provided.

5 **Q. Do you agree with Mr. Wood that the FCC, via the Wisconsin Order, has**
6 **provided a detailed explanation of how its standards should be**
7 **implemented when establishing intrastate payphone rates?**

8 A. Absolutely not. Although the Competitive Pricing Division of the FCC's
9 Common Carrier Bureau has issued the Wisconsin Order, the FCC has not
10 upheld the order, and it is currently under appeal both in front of the FCC and
11 the courts. Furthermore, the Bureau's decision, by its own words, "only
12 applies to the LECs in Wisconsin specifically identified herein."³ In addition,
13 Sprint has maintained throughout this proceeding, the Wisconsin Order is in
14 direct contravention to the 1996 Telecommunications Act and written FCC
15 directives. As I discussed above, insofar as the Wisconsin Order prescribes
16 payphone lines at UNE rates and UNE overhead loadings, the order is
17 inconsistent with prior FCC (not Bureau) precedent. The "new services" test
18 does not require that direct costs be based on forward-looking costs, much less

³ In the Matter of Wisconsin Public Service Commission Order Directing Filings, CCB/CPD Docket No. 00-1, Order, adopted March 1, 2000, at ¶ 13.

1 any particular methodology. Again, the FCC has given LECs the flexibility to
2 develop and justify costing methodologies to meet the “new services” test.

3 **Q. Does this conclude your testimony?**

4 **A. Yes it does.**